

# PENOBSCOT NATION

DEPARTMENT OF  
NATURAL RESOURCES

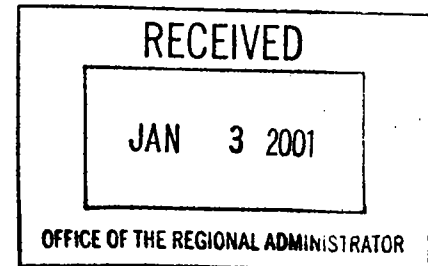
JOHN S. BANKS, DIRECTOR



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cc: S Silva (response to 5a-14a)  
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December 28, 2000

Martha G. Kirkpatrick, Commissioner  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333-0017



Dear Martha:

Thank you for your 12/18/00 letter responding to an op-ed letter which I wrote and submitted to the Bangor Daily News.

I began development of the Penobscot Nation Water Resources program in the early 1980s. I believe it was the summer of 1982 when 2 of our DNR staff (a Warden and a Biologist) noticed an oily sheen on the surface of the Penobscot River when they were launching their boat at the South Lincoln boat ramp. They followed the spill upstream to its source at Lincoln Pulp and Paper, where the local person at the treatment plant initially denied any problem. It turned out to be a malfunction of an oil/water separator. We contacted the local DEP authorities in Bangor and the incident received an enthusiastic response with much support for enforcement action. Unfortunately, this enthusiasm met a quick demise when the upper management of DEP in Augusta became involved. I am quite certain that no enforcement action was ever taken. Over the course of the several months following that incident, I learned a great deal about how water quality is regulated in this State. I discovered that the major industrial facilities that pollute and poison our reservation and its natural resources are left largely to police themselves with very little oversight from Maine.

That incident immediately raised many important questions: 1. How often do spills like this and other contamination problems happen? 2. How many of these incidents go unnoticed and/or unreported? 3. What are the public health and ecological consequences of these events?

More recent problems regarding lack of attention by Maine DEP are also troublesome. You are well aware of DEP's support of Lincoln's request to discontinue contaminant monitoring of Bald Eagles within the Penobscot Indian Reservation a few years ago during the NPDES permit renewal proceedings. When we discussed this, your excuse for not consulting with the Penobscot Nation was that DEP wasn't sure if we were an adjacent landowner, even though the discharge is directly into reservation waters!!

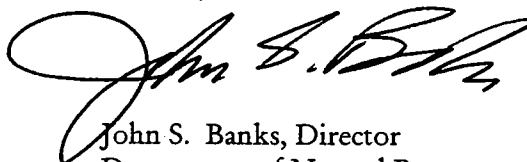
December 28, 2000

The most recent incidents are of course the problems with licensing and monitoring at the Passadumkeag and Costigan Stud Mills. You know the details here. Has DEP decided what to do about the Passadumkeag licensing issue yet? As usual, I remain un-informed (by DEP) of these serious water quality threats to our reservation.

I am glad that you are interested in meeting with the Nation to discuss compliance and enforcement issues. I wish that your desire to work more cooperatively with the tribes in this matter was the "official" position of the State of Maine. Unfortunately, it is not.

Where was Maine when EPA hired a consultant (Suzanne Orenstein) to scope out the possibility of the tribes, Maine, and EPA sitting down to discuss this in a cooperative manner? Where was Maine when the MITSC asked one more time if Maine would reconsider their decision not to participate in a discussion to address cooperative water quality management?

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Banks". The signature is fluid and cursive, with a large loop at the beginning and a trailing flourish at the end.

John S. Banks, Director  
Department of Natural Resources

cc: MITSC  
Mindy Lubber



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.  
GOVERNOR

December 18, 2000

MARTHA KIRKPATRICK  
COMMISSIONER

Mr. John Banks  
Natural Resources Director  
Penobscot Indian Nation  
6 River Road  
Old Town, ME 04468

Dear John:

I read your op-ed piece in today's Bangor Daily News. In particular, I am responding directly to a statement in your letter: "We are also very concerned about some cases in the past where Maine has shown a notable lack of enforcement of existing water quality regulations."

This statement is extremely troubling as well as baffling to me. I am utterly at a loss as to "the many firsthand experiences where Maine has turned its head to look away from known pollution discharge problems" to which you refer in your letter. As has been offered before, I would welcome the opportunity to meet with you and your staff, as well as members of the other tribal governments if they are interested, to discuss any and all of our compliance and enforcement programs in detail and identify the particular areas you believe are unsatisfactory. If you think it would be helpful to have the participation of MITC and/or EPA Region I at such a meeting, I would welcome that too.

As a long-time environmental regulator I know the importance of timely and effective enforcement. The deterrent that enforcement provides is necessary if we are to achieve our environmental goals. While DEP has a strong enforcement program, we are always interested in opportunities for improvement. We have welcomed the collaborative assistance the Nation has given us in the past, and hope that we might be able to engage in a constructive dialogue to address any concerns you have.

Please call me at your convenience if you think such a meeting would be useful to you.

Sincerely,

Martha G. Kirkpatrick  
Commissioner

Cc: Cushman Anthony, MITSC  
Mindy Lubber, Regional Administrator, EPA Region I

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